

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF WATER RESOURCES

P.O. Box 10009

Richmond, VA 23240-0009

SUBJECT: Procedure for Uncontested Termination of Ground Water Withdrawal Permits and Special Exceptions

TO: Gerry Seeley, Frank Daniel

FROM: Terry D. Wagner, Director

DATE: March 8, 2005

COPIES: Rick Weeks, David Borton, Robyne Bridgeman

Summary:

The purpose of this guidance is to establish a revised procedure for terminating Ground Water Withdrawal Permits and Special Exceptions when the termination is not contested by the permit holder. In the remainder of this document the use of the words ground water withdrawal permit will include special exceptions to withdraw ground water. This guidance will be incorporated into the ground water withdrawal procedures manual that is currently being updated.

Electronic Copy:

An electronic copy of this guidance in PDF format is available for staff internally on DEQNET and for the general public on DEQ's website at: <http://www.deq.virginia.gov>

Contact information:

Please contact Terry Wagner, Division of Water Resources, (804) 698-4043 or tdwagner@deq.virginia.gov if you have any questions about this guidance.

Disclaimer:

This document is provided as guidance and, as such, sets forth standard operating procedures for the agency. However, it does not mandate any particular method nor does it prohibit any particular method for the analysis of data or establishment of a permit limit. If alternative proposals are made, such proposals should be reviewed and accepted or denied based on their technical adequacy and compliance with appropriate laws and regulations.

Procedure for Uncontested Termination of Ground Water Withdrawal Permits

Background:

Currently procedures call for all ground water withdrawal permit revocations to be presented to and approved directly by the State Water Control Board. The basis for this procedure is the Ground Water Management Act of 1992 at §62.1-256.9 where revocation of permits is excluded from delegation by the Board to the Executive Director. Revocation and termination have until now been interpreted as one and the same. In this context, however, an uncontested termination due to the cessation of a withdrawal or reduction in withdrawal amounts below 300,000 gallons per month where the owner has requested or agreed to termination and waived the right to an informal fact-finding, is not a contested action; and logically the prohibition of delegation should not apply. For this reason, a revised procedure for uncontested termination of permits has been developed as outlined below.

The procedure for contested revocation of permits, or permits subject to pending state or federal enforcement action including citizen suits brought under state or federal law, will remain unchanged and will require direct Board approval.

Procedure for Uncontested Termination of Permits:

The following procedure will apply to the termination of permits that are uncontested by the permittee because the existing permit is no longer required due to cessation of the withdrawal or reduction of the withdrawal to an amount less than 300,000 gallons per month.

The procedure is:

1. Termination may be proposed by the permittee or by staff. Verification and documentation that the permit is no longer necessary will be made by the permit writer. In the case of a permittee who wishes to terminate a permit based on a reduction of ground water withdrawals to a level less than 300,000 gallons per month, the last four quarterly ground water withdrawal permit reports must support this claim.
2. The permit writer must advise the permittee of the right to a hearing by completing and sending the attached "Intent to Terminate Letter" and "Uncontested Termination Agreement Form" and ask that it be signed and returned.
3. If the "Uncontested Termination Agreement Form" is signed and returned indicating the permittee has waived the right to a hearing and certifying that there are no pending state or federal enforcement actions on the permit, the "Uncontested Termination Notification Letter" is completed and sent to the permittee by certified mail informing him that the permit is terminated. This letter should be signed by the person delegated the authority to issue the permit.
4. The termination agreement form and correspondence is filed at the regional office and copies are sent to the OGWM in Central Office.
5. The Ground Water Withdrawal Permit Tracking System database is updated by the permit writer to reflect the change in permit status.

Attachments:

Intent to Terminate Letter
Uncontested Termination Agreement Form
Uncontested Termination Notification Letter

Intent to Terminate Letter

Regional Letterhead

Date

Facility Contact

Facility Name

Address

RE: Termination of Ground Water Withdrawal Permit No. _____

Dear _____ :

The Department of Environmental Quality intends to terminate the referenced permit for the following reason(s):

[provide an explanation]

If you agree with the proposed termination and wish to dispense with the prescribed hearing, please sign and date the attached agreement form in the spaces provided and return it to this office within 14 days.

If you do not agree to the termination of this permit and wish a hearing under § 62.1-266.E of the Code of Virginia, please contact me as soon as possible.

If you have any comments or questions, please call me at [() XXX-XXXX].

Sincerely,

[Permit Writer]

Enclosures:

Termination Agreement Form

Uncontested Termination Agreement Form

SUBJECT: TERMINATION OF GROUND WATER WITHDRAWAL PERMIT NO.

TO: **[Permit Writer]**
 [DEQ Regional Office Address]

OWNER: **[Full name as on permit**
Address
City, State, Zip]

I hereby agree to the termination of Ground Water Withdrawal Permit No. _____ for the following reasons:

[Provide reason for Termination]

In addition, I waive my right to a hearing in accordance with Section § 62.1-266.E of the Ground Water Management Act of 1992.

I certify that the permit is not subject to a pending state or federal enforcement action, including citizen suits, brought under state or federal law.

SIGNED: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

Uncontested Termination Notification Letter

Regional DEQ Letterhead

Date

Contact Name

Facility Name

Address

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

RE: Ground Water Withdrawal Permit No.

Dear :

The Department of Environmental Quality has approved the termination of the Permit referenced above. Termination of this permit is effective 30 days from the date of this notification unless you provide an objection in accordance with one of the two paragraphs below.

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty days from the date you receive this decision within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court of Virginia with the Director, Virginia Department of Environmental Quality.

In addition, any owner aggrieved by any action of the State Water Control Board taken without a formal hearing, or by inaction of the Board, may petition in writing for a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the Board. Said petition must meet the requirements set forth in §1.23 (b) of the Board's Procedural Rule No. 1 (9 VAC25-230).

If you have any questions, please call **[permit writer]** at () XXX-XXXX.

Sincerely,

cc: Department of Health (**GWWP that also have VDH Waterworks Operation Permits**)